IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4421 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PB RAWAL & 11 - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR BIREN A VAISHNAV for Petitioner(s) : 1 - 12.
Mr. Maulik Nanavati, Asst.G.P. for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH
Date : 06/12/2006

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the respective petitioners have prayed for a declaration that they are eligible to apply for plots of land at Gandhinagar as per the Government Resolution

dated 29.6.1988 and subsequent Resolution dated 23rd January 1990 and others passed from time to time. It is further prayed to declare Clause 3 of the Resolution dated 23rd January 1990 extending the benefit of grant of extension of time limit as restricted to Government employees who have been on deputy, long leave etc., as bad in law. It is further prayed to quash and set aside the action of the respondent No.2 in rejecting the application of the petitioners as time barred.

2. It is the case on behalf of the petitioners that they were working in different capacities in Clerical cadre under respondent No.3; that they have submitted applications for allotment of plots in light of the Resolution dated 29.6.1988 and the Resolution dated 23rd January 1990; and their applications have been rejected by the Collector, Gandhinagar as time barred. It is also the contention on behalf of

the petitioners relying upon one communication dated 23rd March 1990 by the Chief Police Officer and Director Anti-Corruption Bureau, State of Gujarat, addressed to the Collector, Gandhinagar that as the department had not received the resolution dated 29.6.1988 the applications were not made within the stipulated time limit. It is the contention on behalf of the petitioners that by subsequent resolution the time limit has been extended, however the same has been restricted to some of the Government employees who were on deputation, long leave etc., and therefore the Government Resolution dated 23rd January 1990 should be quashed and set aside as being discriminatory and violative of Article 14 of the Constitution of India. In the aforesaid facts and circumstances, it is submitted that the action of the respondent No.2 Collector, Gandhinagar in rejecting the application of the petitioners as time barred should also be quashed and set aside.

3. Petition is opposed by Shri Maulik Nanavati, learned AGP appearing for the State. It has been submitted that admittedly the Government Resolution dated 29.6.1988 provided for submitting the applications on or before 31.12.1988 and that all the petitioners had submitted their applications in the month of January 1990, which were not within the stipulated time. Admittedly, the subsequent resolutions extending the time will not be applicable to the petitioners and it will be applicable only to the restricted class of employees who were on deputation, long leave etc., and therefore the action of respondent No.2 in rejecting the application of the petitioners as time barred is just and in accordance with the Government Resolution dated 29.6.1988. It is further submitted that there is no prayer in the petition to extend the time limit for making such applications. It is, therefore, requested to dismiss the present Special Civil Application.

4. Heard the learned advocates appearing on behalf of the parties. It is not in dispute that by Government Resolution dated 29.6.1988 all the petitioners and other employees were required to submit applications for allotment of plots on or before 31.12.1988, and admittedly all the petitioners submitted their applications in the month of January 1990. It is not in dispute and it is even admitted on behalf of the learned advocates appearing on behalf of the petitioners that by subsequent resolutions the time limit had been extended, however it was restricted to only those employees who were on deputation, long leave etc., It is also required to be noted that in the present Special Civil Application, there is no prayer to condone the delay and/or to direct the respondents to consider the case of the petitioners sympathetically in view of the letter dated 23rd March, 1990 addressed by the Director and Chief Police Officer, Anti-Corruption Bureau wherein only it has been stated

that the petitioners are eligible for allotment of plots at Gandhinagar as per the Resolution dated 29.6.1988. Nobody has disputed that they are not eligible to allotment of plots at Gandhinagar as per the said resolution. However, the said Resolution provided that applications should be made on or before 31.12.1988. In view of the fact that the applications had been submitted in the month of January 1990, it cannot be said that the action of the respondent No.2 in rejecting the applications in the facts and circumstances of the case is arbitrary and/or illegal and/or dehors the G.R. Dated 29.6.1988. So far as the challenge to Clause 3 of the Resolution dated 23rd January 1990 extending the benefit of grant of extension to those who have been on deputation, long leave etc., as bad and violative of Article 14 of the Constitution of India is concerned, it is required to be noted that first of all it is the policy decision, and considering the representation made by various

other employees who were out of Gandhinagar due to deputation, long leave etc., and who might not have come to know about the aforesaid G.R., as a special case the time limit was extended. The said policy decision is neither discriminatory nor illegal and/or bad in law. Considering the special circumstances under which employees who were on deputation, long leave etc., their cases have been considered and time limit has been extended. Under the circumstances, the contention of the petitioners that Clause 3 of the resolution dated 23rd January 1990 is bad in law cannot be accepted.

5. For the reasons stated above, there is no substance in the present Special Civil Application. The petitioners are not entitled to any relief as prayed for. The petition requires to be dismissed and is accordingly dismissed. Rule is discharged. No costs.

[M.R. Shah, J.]

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